

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Dwight Freeman, :
 :
Plaintiff : Civil Action 2:09-cv-565
 :
v. : Judge Marbley
 :
Director Terry Collins, *et al*, : Magistrate Judge Abel
 :
Defendants :

Report and Recommendation

This matter is before the Magistrate Judge on the Ohio Department of Rehabilitation and Correction's March 30, 2010 motion for an order dismissing Plaintiff's Complaint against named individuals Barr, Batista, Bevins, Cadogan, Terry Collins, Comer, Gary Croft, Cynthia M Davis, Durham, Fields, Larry Green, T. Hill, Phillip Kerns, Al Louise, Lykins, Markins, L. Mautman, Joshua Maynard, Messer, Murphy, Owens, Pack, Mona Parks, Pearson, Porter, Dirk Prise, David See, Stalnaker, Lt. Stone, Welch, Witman, Woodard, and Sean Wright who are alleged to be a state employees in the above-captioned case for insufficiency of service of process pursuant to Fed. R. Civ. P. 12(4) and (b)(5) (doc. 20). The Magistrate Judge RECOMMENDS that defendant's motion (doc. 20) be DENIED.

Freeman maintains that he has sent the required number of complaints to the Clerk of Court. A notation on the Court's docket, however, shows that Freeman

provided the Court with incomplete complaints. The Clerk of Court is missing copies of the exhibits that were attached to complaint. Freeman is DIRECTED to provide the Court with copies of the exhibits that were attached to his complaint within thirty days of the date of this Report and Recommendation.

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties a motion for reconsideration by the Court, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1)(B); Rule 72(b), Fed. R. Civ. P.

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *Thomas v. Arn*, 474 U.S. 140, 150-152 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Willis v. Sullivan*, 931 F.2d 390, 401 (6th Cir. 1991).

s/ Mark R. Abel
United States Magistrate Judge